

Federal Communications Commission

SEP 16 1993

Washington, DC 20554

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

In re applications of)	MM Docket No. <u>93-241</u>
)	
DARRELL BRYAN)	File No. BPH-920109MA
)	
SBH PROPERTIES, INC.)	File No. BPH-920123MD
)	
For a Construction Permit)	
for a New FM Station on)	
Channel 276A (107.3 MHz))	
in Tusculum, Tennessee)	

To: The Hon. John M. Frysiak
Administrative Law Judge

PETITION FOR LEAVE TO AMEND

Pursuant to Sections 73.3522 (B) (1) and Section 1.65 of the Commission's Rules, Darrell Bryan ("Bryan") hereby seeks leave to amend his application with the attached engineering statement which corrects the area and population figures reported in his application.

The Commission assesses the grantability of post-designation amendments under the good cause standard set forth in *Erwin O'Connor Broadcasting Co.*, 22 FCC 2d 140, 143 (Rev. Bd, 1970). The proposed amendment satisfies that test. Bryan has acted with diligence in submitting this correction, having been alerted by the HDO, released August 31, 1993, that the applications reflected a significant difference in areas and population. Bryan had expected no significant difference in areas and populations because his site and the site proposed by SBH Properties, Inc. ("SBH") are only about two miles apart. Bryan's consulting engineer has determined that an error was made in computing area and population resulting in incorrect figures being reported in the application.

The area and population figures reported in the application are 2122 square kilometers

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and 95,440 persons. The actual area and population figures for the Bryan proposal reported in this amendment are 2,495 square kilometers and 135,924 persons as compared to the SBH figures of 2,543 square kilometers and 135,888 persons--a population difference between the two proposals of 36 persons.

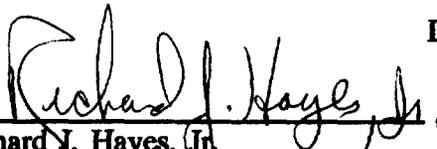
Grant of the amendment will not necessitate modification or addition of issues. Far from disrupting the orderly conduct of the hearing, grant of the proposed amendment will aid in the progress of the hearing. The amendment shows that there is no significant difference in areas and populations between the two proposals. Acceptance of the amendment will avoid the need for a joint engineering exhibit and allow for a joint stipulation on areas and populations.

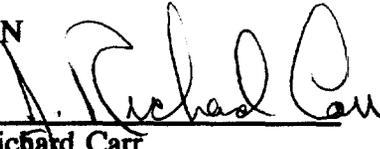
Submission of the corrected area and population figures does not constitute a comparative upgrade because there has been no change in any aspect of the Bryan proposal. The amendment simply provides the correct area and population figures for the application. If the amendment is not accepted, the parties will have to arrange for the preparation of a joint engineering exhibit which will involve additional expense for the parties, and require Bureau analysis. In the end, the joint engineering exhibit would report the actual area and population figures for both applicants, and would show the area and population figures for Bryan set forth in the attached amendment. For this reason, grant of the amendment will not prejudice SBH in any way.

Accordingly, good cause having been shown, Bryan respectfully requests that the presiding officer grant the applicant the requested leave and accept the attached amendment.

Respectfully submitted,

DARRELL BRYAN

By: 
Richard J. Hayes, Jr.
13809 Black Meadow Road
Spotsylvania, VA 22553

By: 
J. Richard Carr
P.O. Box 70725
Chevy Chase, MD 20813-0725

September 16, 1993

AMENDMENT

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SEP 16 1993

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY



P.O. Box 727 * Snapps Ferry Road * Greeneville, TN * 37744-0727 / 615-638-3188

AMENDMENT

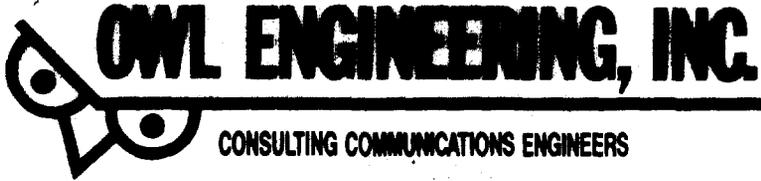
The application of Darrell Bryan ("Bryan") for new FM station at Tusculum, Tennessee (BPH-920109MA) is hereby amended by the inclusion of the attached engineering amendment which corrects the area and population figures reported in the application.

When I was informed that the Hearing Designation Order indicated that there was a significant difference in areas and populations, I informed counsel that based on my knowledge of the area, I did not believe that there could be a significant difference. The consulting engineer has now determined that a mistake occurred in the computation of area and population. The attached amendment submits the correct figures.

Dated: September 10, 1993

BY: 

DARRELL BRYAN



CONSULTING COMMUNICATIONS ENGINEERS

1306 W. County Road F, St. Paul, MN 55112
(612) 631-1338 • Fax (612) 631-3502

**ENGINEERING STATEMENT IN SUPPORT OF AN
AMENDMENT TO APPLICATION
ON BEHALF OF
DARRELL BRYAN
CHANNEL 276A TUSCULUM, TN**

September 10, 1993

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**ENGINEERING STATEMENT IN SUPPORT OF AN
AMENDMENT TO APPLICATION
ON BEHALF OF
DARRELL BRYAN
CHANNEL 276A TUSCULUM, TN**

This statement was prepared on behalf of Darrell Bryan (hereafter Bryan) in support of an Amendment to his Application for an FM construction permit for channel 276 at Tusculum, Tennessee.

An engineering review of the application revealed an inadvertent mistake in the area and population served by the proposed facilities. The application, as originally filed, contains the following area and population data :

Area Served km ²	Population Served (1990 Census)
2,122	95,440

Upon reviewing Mr. Bryan's application, it was discovered that the area and population calculations should have reflected the following data :

Area Served km ²	Population Served (1990 Census)
2,495	135,924

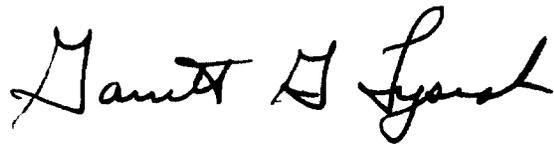
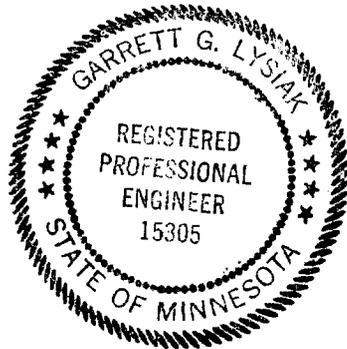
Note: The population count was made through the employment of a computer program containing a data base including the geographic coordinates of the centroids of populations groupings. The area within the proposed 60 dBu coverage contour was determined by a computerized integration program.

**ENGINEERING STATEMENT IN SUPPORT OF AN
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DARRELL BRYAN
CHANNEL 276A TUSCULUM, TN**

AFFIDAVIT

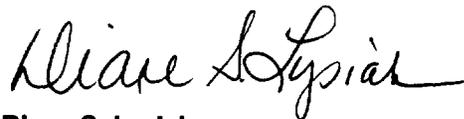
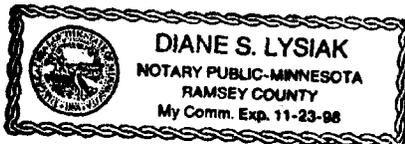
RAMSEY COUNTY)
)
STATE OF MINNESOTA) ss:

Garrett G. Lysiak, being first duly sworn, says that he is president of Owl Engineering, Inc., consulting communications engineers with offices in Arden Hills, Minnesota: that his qualifications as an expert in communications engineering are a matter of record with the Federal Communications Commission: that the foregoing exhibit was prepared by him and under his direction; and that the statements contained therein are true of his own personal knowledge except those stated to information and belief and, as to those statements, verily believes them to be true and correct.



Garrett G. Lysiak, P.E.

Subscribed and sworn to before me this date September 10, 1993



Diane S. Lysiak
Notary Public

My commission expires November 23, 1998

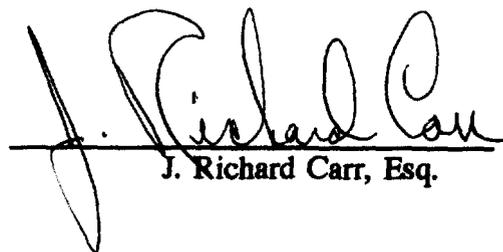
CERTIFICATE OF SERVICE

I, J. Richard Carr, hereby certify that copies of the foregoing **PETITION FOR LEAVE TO AMEND** were sent via first class mail, postage prepaid, or as otherwise indicated to each of the following on this 16th day of September, 1993:

The Hon. John M. Frysiak
Administrative Law Judge
Federal Communications Commission
2000 L Street, NW
Room 223
Washington, DC 20554

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